

REMARKS

Applicants have amended the specification at page 13 without adding new matter merely to correct a spelling error and to update the citations in para. [0046].

Claim 1 has been rejected under 35 U.S.C. § 102(b) as being anticipated by Yates et al '312. This rejection is respectfully traversed with respect to this claim as amended herein.

Specifically, this claim now recites "a clamp accessory for removable positioning therein of an ablation device," and "a first elongated jaw member having a recess in an inner surface thereof adapted to slidably receive the ablation device therein," and "a hinge structure operably attaching the first jaw member to the second jaw member for relative rotation between open and closed configurations along an axis substantially aligned along the elongated direction for selectively effecting closure of the first and second jaw members to operatively engage the ablation device upon a target tissue disposed between the first and second jaw members."

These aspects of the claimed invention are not disclosed by Yates et al '312 which is understood to describe specific surgical tools for electro-cauterizing, stapling and severing biological tissue including elongated jaws oriented to rotate about an axis lateral to the elongated direction of the jaws. There is thus no disclosure here of an accessory clamp for an ablation device having the defined

characteristics as now claimed by Applicants. It is therefore respectfully submitted that claim 1 as amended is not anticipated by, but instead is now patentably distinguishable over Yates et al '312.

Rejected claim 17 has been cancelled without prejudice.

Claim 1 has been rejected under 35 U.S.C. § 102(e) as being anticipated by Hooven et al '536. This rejection is respectfully traversed with respect to this claim as amended herein.

Claim 1 as amended herein specifically recites the structural characteristics of Applicants' invention, as quoted and discussed in the above Remarks. These structural characteristics are not described or illustrated in Hooven et al '536 which at best discloses translational movement of jaws, or rotational movement of elongated jaws about a hinge axis that is transverse to the elongation of the jaws. It is therefore respectfully submitted that claim 1 is not anticipated by, but instead is now patentably distinguishable over the cited art.

Claim 1 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over Truckai et al '851. This rejection is respectfully traversed with respect to this claim as amended herein.

This claim now specifically recites "a clamp accessory for removable positioning therein of an ablation device," and "a first elongated jaw member having a recess in an inner surface thereof adapted to slidably receive the ablation

device therein," and "a hinge structure operably attaching the first jaw member to the second jaw member for relative rotation between open and closed configurations along an axis substantially aligned along the elongated direction for selectively effecting closure of the first and second jaw members to operatively engage the ablation device upon a target tissue disposed between the first and second jaw members."

These claimed aspects of the claimed invention are not disclosed or fairly derived from Truckai et al '851 which is understood to electro-cauterize tissue for sealing (and severing) in an assembled instrument rather than as an accessory clamp disposed to removably receive a tissue ablation device, as claimed by Applicants. At best, this reference is understood to include an assembly of electrodes in elongated jaws that are hinged along an axis transverse to the elongated direction for clamping and electrifying tissue between jaws. It is submitted that these features of the reference as currently understood do not fairly establish a *prima facie* basis, including all recited elements, from which a proper determination of obviousness can be formed. Claim 1 is therefore submitted to be patentably distinguishable over the cited art.

Applicants are presenting herewith new dependent claims 19, 20 to provide scope and breadth of claims coverage to which Applicants are submitted to be entitled in view of the cited art. Support for the subject matter of these new claims

is contained in the specification and drawings, for example, at paras. [0052] et seq.
and Figures 5A-D.

Favorable consideration and allowance of all pending claims are solicited.

Respectfully submitted,
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